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NOTICE OF ALLOWANCE AND FEE(S) DUE

21707 7590 10/09/2008

IAN F. BURNS & ASSOCIATES
4790 Caughlin Parkway #701
RENO, NV 89519-0907

EXAMINER

HARPER, TRAMAR YONG

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 10/09/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,003	07/10/2003	Jerald C. Seelig	619,625	4382

TITLE OF INVENTION: GAMING DEVICE AND METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	01/09/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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RENO, NV 89519-0907

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	YES	\$755	\$300	\$0	\$1055	01/09/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
HARPER, TRAMAR YONG	3714	463-020000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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IAN F. BURNS & ASSOCIATES 4790 Caughlin Parkway #701 RENO, NV 89519-0907			HARPER, TRAMAR YONG	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/09/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 596 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 596 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/618,003

Applicant(s)

SEELIG ET AL.

Examiner

TRAMAR HARPER

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/28/08.
2. ☒ The allowed claim(s) is/are 69,71-119,121 and 122.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas J. Howell on 9/24/08.

In the Claims:

Claim 69 (replace claim 69 with the following):

A gaming device comprising:

- (A) a housing;
- (B) a plurality of mechanical reels located in the housing, the mechanical reels being rotatable about an axis, the mechanical reels being moveable in at least a first and a second manner, the mechanical reels being moveable independently of each other;
- (C) a player input device coupled to the housing, the player input device in communication with a controller, the player input device being adapted to be activated by a player; and
- (D) the controller in communication with the mechanical reels and the player input device, the controller enabling the player input device after an occurrence of a consecutive number of losing outcomes and when no game is being played and disabling the

player input device while a game is being played, the controller causing at least one of the mechanical reels to move in a the first manner when a game is played and to allow the player to cause at least one of the mechanical reels to move in the second manner when the game is not being played without altering or producing a game outcome, the game outcome comprising a winning or losing outcome, and after the player has activated the player input device.

Claim 70 is canceled.

Claim 72:

- line 1, replace "claim 70" with -- claim 69 --

Claim 73:

- line 1, replace "claim 70" with -- claim 69 --

Claim 79 (replace claim 79 with the following):

A gaming method comprising:

- (A) providing a gaming device having a game display;
- (B) displaying a game on said gaming device utilizing a plurality of moveable objects, and moving the moveable objects in a first manner during game play, wherein game play comprises

determining a game outcome comprising a winning or losing outcome;

(C) locating the moveable objects in a first position associated with the game outcome;

(D) determining a number of consecutive losing outcomes;

(E) providing a player input device;

(F) giving a player an opportunity to activate the player input device; and

(G) moving the moveable objects in at least a second manner when the game is not being played without altering or producing any game outcome, and if the player activates the player input device, movement of the moveable objects in the first manner being different from movement of the moveable objects in the second manner.

Claim 92 (replace claim 92 with the following):

A gaming method comprising:

(A) providing a gaming device having a game display and a player input device;

(B) playing a plurality of games on said gaming device comprising

(a) accepting a wager;

- (b) presenting a game, the game display comprising a plurality of moveable objects, the moveable objects being moved in a first manner during game play, wherein game play comprises determining a game outcome comprising a winning or losing outcome; and
- (c) locating the moveable objects in a first position associated with the game outcome;
- (C) determining a number of consecutive losing outcomes; and
- (D) moving the moveable objects in at least a second manner without altering or producing any game outcome, if a number of consecutive outcomes of a same type is at least a threshold number and if the game is not being played, wherein step D occurs after step B(b).

Claim 106 (replace claim 106 with the following):

A gaming device comprising:

- (A) at least one housing;
- (B) a moveable game element attached to the housing, the moveable game element being moveable in at least a first and second manner; and
- (C) a controller in communication with the moveable game element, the controller being configured to move the moveable game element in the first and second manner, the controller

determining a game outcome, the game outcome comprising a winning or losing outcome, the controller causing the moveable game element to move in the first manner when a game is played and to move in the second manner without altering or producing any game outcome when the game is not being played and after the controller determines a number of consecutive outcomes of a same type.

Claim 120 is canceled.

Claim 121 (replace claim 121 with the following):

A gaming method comprising:

- (A) providing a gaming device having a game display;
- (B) displaying a game on said gaming device utilizing a plurality of moveable objects comprising moving the moveable objects in a first manner during game play;
- (C) determining a game outcome, the game outcome comprising a winning or losing outcome and locating the moveable objects in a first position;
- (D) determining a number of consecutive losing outcomes;
- (E) providing a player input device;
- (F) giving a player an opportunity to activate the player input device;

(G) moving the moveable objects in at least a second manner when the game is not being played and if the player activates the player input device without altering or producing any game outcome, movement of the moveable objects in the first manner being different from movement of the moveable objects in the second manner, wherein step G occurs after steps B and F; and

(H) returning the moveable objects to the first position that the moveable objects were in prior to activation of the player input device.

Claim 122 (replace claim 122 with the following):

A gaming method comprising:

- (A) providing a gaming device having a game display and a player input device;
- (B) playing a plurality of games on said gaming device comprising:
- (a) accepting a wager;
 - (b) presenting a game, the game display comprising a plurality of moveable objects;
 - (c) moving the moveable objects in a first manner during game play; and

- (d) determining a game outcome, the game outcome comprising a winning or losing outcome and locating the moveable objects in a first position;
- (C) determining a number of consecutive losing outcomes;
- (D) moving the moveable objects in at least a second manner if a number of consecutive outcomes of a same type is at least a threshold number and if the game is not being played without altering or producing any game outcome, wherein step D occurs after step B(c); and
- (E) moving the moveable objects to the first position they were in prior to activation of the player input device.

Allowance

The following is an examiner's statement of reasons for allowance:

Claims 69, 71-119, and 121-122 are allowed in view of the examiner's amendment and arguments filed 1/28/08. The examiner's amendment was to amend the claim language to differentiate from attract mode gaming.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Art Unit: 3714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art
Unit 3714

TH

9/30/08

